IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5579 OF 2006

Damodar Namdeo Dhikale ..Petitioner.
Vs.
Baburao Namdeo Dhikale ..Respondent.

Mr.R.G.Ketkar, adv. for the Petitioner.

CORAM : J.H.BHATIA, J.
DATE : AUGUST 17, 2007.

P.C.:

1. Heard the learned counsel for the Parties.

2. The respondent no.1 filed an appeal against the mutation entry no.2935 before the learned Sub-Divisional Officer, Nashik. That appeal was allowed and the S.D.O. directed parties to approach the competent Civil Court. Against that order, the present petitioner filed Revision Application No.155 of 1999, which came to be dismissed by the learned Additional Commissioner, Nashik Division on 30-10-2000 mainly on the ground that the mutation entry was taken on the basis of documents, which purported to be partition deed but which was not registered as per the law. It appears that thereafter the petitioner filed Review Application No.279 of 2000 before the Additional Commissioner which came to be rejected on 29-12-2005 on the ground that the petitioner has not made any ground

for review. Thereafter, in July, 2006, the petitioner filed the present petition. It appears that the Additional Commissioner had dismissed the revision application on 30-10-2000 on merits of the case. If the petitioner was aggrieved, he could prefer revision application at that time. However, without any justification and without making any ground for review, he filed review application, which was also finally dismissed. In my opinion, review application was filed without any justification and there has been delay of about 6 years in filing the writ petition. I am not satisfied that the petitioner was prosecuting the remedy available under the law during all these years. Therefore, I am not inclined to intervene in writ jurisdiction.

3. The learned counsel makes a statement that already the suit is pending before the Civil Court wherein all these issues are raised. As pointed out earlier the S.D.O. while allowing the appeal of the respondent had directed parties to approach the Civil Court to seek redressal if they had any grievance. Therefore, findings of the revenue authority will not affect the right or title of the petitioner, which he may have on the disputed property on the basis of alleged partition deed or memorandum of partition as the learned counsel calls it.

4. With the aforesaid observations, petition stands dismissed.

[J.H.BHATIA, J.]